

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

Jacqueline Taylor, et al.,

Case No. 4:20-cv-11860

Plaintiffs,

Hon. Denise Page Hood
Mag. Anthony P. Patti

v.

City of Detroit, et al.,

Defendants.

**DEFENDANTS THE CITY OF DETROIT, MAYOR MICHAEL
DUGGAN AND GARY BROWN’S RESPONSE TO PROPOSED
AMICI’S MOTION FOR LEAVE TO FILE A BRIEF**

On September 24, 2020, proposed Amici Food & Water Watch, Inc. and For Love of Water filed a motion for leave to appear as amici curiae, opposing defendants the City of Detroit, Mayor Michael Duggan, and Gary Brown’s motion to dismiss as it relates to plaintiffs’ substantive due process claim. (ECF No. 27). To the extent that granting proposed amici’s motion will assist the Court, the City does not oppose it. The City makes the following two observations only.

First, proposed amici’s argument is somewhat inconsistent. On the one hand, they argue that prior Sixth Circuit decisions that reject the

claim that there is a fundamental right to water service do not control here, because plaintiffs are proceeding under the theory that the right to bodily integrity includes the right to be free of disease from a lack of water service. (*Id.* at 437–41). However, on the other, amici contend that the right to bodily integrity encompasses the right to be free of disease from a lack of water service, by relying on sources tied to the question of whether a fundamental right to water service exists. (*Id.* at 441–46). All this does is underscore the problem with plaintiffs’ claim: there is no difference between a fundamental right to water service and the right to be free of disease from a lack of water service: an injury to one is an injury to both.

Second, proposed amici at times rely on comparisons to Eighth Amendment cases. (*Id.* at 444–45). On one occasion, plaintiffs did the same in their response. (ECF 25, PageID.388). But this is not an Eighth Amendment case. If it were, a completely different set of legal rules would apply. So such comparisons are unhelpful at best.

Respectfully,

/s/ Hallam Stanton

City of Detroit Law Department
Attorney for defendant City of Detroit
Two Woodward Avenue
Detroit, Michigan 48226
(313) 237-5082
stantonh@detroitmi.gov
P82319

Dated: October 8, 2020

Certificate of Service

I hereby certify that on October 8, 2020, I electronically filed the foregoing papers with the Clerk of the Court using the ECF system which will send notification of such filing to the attorneys of record with the court.

/s/ Hallam Stanton